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8 Attorneys for Plaintiff, Thomas E. Perez,
United States Department of Labor

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

12 THOMAS E. PEREZ, Secretary of) Case No.: 2:14-cv-01615-JCM-VCF
13 Labor, United States Department of)
14 Labor,)
15 Plaintiff,) CONSENT JUDGMENT AGAINST
16 v.) ALL DEFENDANTS
17 A CAB, LLC; and,)
18 CREIGHTON J. NADY an individual,)
19 Defendants.)

19)

20 Plaintiff, THOMAS PEREZ, Secretary of Labor, United States Department of Labor (the
21 “Secretary”); Defendant A CAB LLC, and CREIGHTON J. NADY, an individual, (collectively,
22 “Defendants”) having appeared through counsel, and having been duly advised on the
23 proceedings, waive their right to answer the Secretary’s Complaint and agree to resolve the
24 matters in controversy in this civil action, and consent to the entry of this Consent Judgment in
25 accordance herewith:

1 A. The Secretary filed a Complaint alleging that Defendants violated provisions of
2 Sections 6, 11(c), 15(a)(2) and 15(a)(5) of the Fair Labor Standards Act of 1938, as amended
3 (“FLSA” or the “Act”). 29 U.S.C. § 206, 211(c), 215(a)(2), and (5). The Secretary’s Complaint
4 alleged that Defendants violated Sections 6 and 15(a)(2) of the FLSA by paying its employees’
5 wages at rates less than the applicable federal minimum wage in workweeks when said
6 employees were engaged in commerce or in the production of goods for commerce or were
7 employed in an enterprise engaged in commerce or in the production of goods for commerce,
8 within the meaning of the FLSA; and Defendants violated Sections 11(c) and 15(a)(5) of the
9 FLSA by failing to make, keep and preserve records of their employees and of the wages, hours,
10 and other conditions and practices of employment maintained by them as prescribed by the
11 regulations found in 29 CFR part 516 that are issued, and from time to time amended, pursuant
12 to section 11(c) of the FLSA.

13 B. Defendants understand and agree that demanding or accepting any of the funds
14 due employees under this Consent Judgment (“Consent Judgment” or “Judgment”) or
15 threatening any employee for accepting money due under this Consent Judgment or for
16 exercising any of their rights under the Fair Labor Standards Act of 1938, as amended (“FLSA”
17 or “the Act”), 29 U.S.C. §201, *et seq.* is specifically prohibited by this Consent Judgment and
18 may subject Defendants to equitable and legal damages, including punitive damages and civil
contempt.

19 C. Defendants waive Findings of Fact and Conclusions of Law, and agree to the
20 entry of this Consent Judgment in settlement of this action, without further contest.

21 Therefore, upon motion of the attorneys for the Secretary, and for cause shown:

22 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that pursuant to Section
23 17 of the FLSA, 29 U.S.C. § 217, Defendants, their officers, agents, servants, employees, and all
24 persons in active concert or participation with them be, and they hereby are, permanently
25 enjoined and restrained from violating the provisions of the Act, in any of the following
manners:

1 1. Defendants shall not, contrary to Sections 6 and 15(a)(2) of the Act, 29 U.S.C. §§
2 206 and 215(a)(2), employ any of their employees at rates less than the applicable federal
3 minimum wage in workweeks when said employees are engaged in commerce or in the
4 production of goods for commerce or are employed in an enterprise engaged in commerce or in
5 the production of goods for commerce, within the meaning of the FLSA.

6 2. Defendants shall not, contrary to Sections 11(c) and 15(a)(5) of the Act, 29 U.S.C.
7 §§ 211(c) and 215(a)(5), fail to make, keep and preserve records of their employees and of the
8 wages, hours, and other conditions and practices of employment maintained by them as
9 prescribed by the regulations found in 29 CFR part 516 that are issued, and from time to time
10 amended, pursuant to section 11(c) of the Act.

11 3. Defendants, jointly and severally, shall not continue to withhold payment of
12 \$139,834.80, plus interest of \$154.00, which represents the unpaid minimum wage compensation
13 hereby found to be due for the period from October 1, 2010, through October 1, 2012, to the
14 present and former employees named in Exhibit A, attached hereto and made a part hereof, in the
15 amounts set forth therein.

16 **FURTHER, JUDGMENT IS HEREBY ENTERED**, pursuant to Section 16(c) of the
17 Act, 29 U.S.C. § 216(c), in favor of the Secretary and against the Defendants, jointly and
18 severally, in the total amount of \$139,988.80

19 4. The provisions of paragraphs 3 of this Consent Judgment will be deemed satisfied
20 when Defendants deliver the following to District Director, Wage and Hour Division, United
21 States Department of Labor, 600 Las Vegas Blvd. S., Suite 750 Las Vegas, NV 89101-6654.

22 a. Within fourteen calendar days of the entry of this Consent Judgment,
23 Defendants shall deliver a schedule containing the last known (home) address, social
24 security number, home telephone number (if known), and cell phone number of those
25 persons listed in Exhibit A.

26 b. **PAYMENT TERMS.** No later than January 2, 2015, Defendants shall
27 deliver a cashier's check or money order in the amount of \$39,988.84 payable to the

1 order of the “Wage & Hour Div., Labor,” with the term “A Cab, LLC” written thereon, as
 2 the first of thirteen payments towards the back wages found due hereunder.

3 c. On or before the first day of each of the following 12 consecutive months,
 4 Defendants shall deliver a cashier’s check or money order payable to “Wage & Hour
 5 Div., Labor,” with the term “A Cab, LLC” written thereon, in the amount of \$8,333.33,
 6 until the total amount due under the backwage provisions of this Consent Judgment has
 7 been paid in full.

8 5. The Secretary shall allocate and distribute the remittances, or the proceeds
 9 thereof, less deductions for employees’ share of Social Security and federal withholding taxes to
 10 the persons named in the attached Exhibit A, or to their estates if that be necessary, in his sole
 11 discretion, and any money not so paid within a period of three years from the date of its receipt,
 12 because of an inability to locate the proper persons or because of their refusal to accept it, shall
 13 be then deposited in the Treasury of the United States, as miscellaneous receipts, pursuant to 29
 14 U.S.C. § 216(c). The Secretary shall be responsible for deducting the employee’s share of FICA
 15 and federal income taxes from the amounts paid to the persons named in the attached Exhibit A,
 16 and for remitting said deductions to the appropriate federal agencies.

17 6. Defendants shall not request, solicit, suggest, or coerce, directly, or indirectly, any
 18 employee to return or to offer to return to any Defendant or to any person acting on behalf of any
 19 Defendant, any money in the form of cash, check, or any other form, for wages previously due or
 20 to become due in the future to said employee under the provisions of this judgment or the Act;
 21 nor shall any Defendant accept, or receive from any employee, either directly or indirectly, any
 22 money in the form of cash, check, or any other form, for wages heretofore or hereafter paid to
 23 said employee under the provisions of this judgment or the Act; nor shall Defendants discharge
 24 or in any other manner discriminate, nor solicit or encourage anyone else to discriminate, against
 25 any such employee because such employee has received or retained money due to him from the
 Defendants under the provisions of this judgment or the Act. Defendants shall pay all wages
 owed to their employees “free and clear,” as required by 29 C.F.R. § 531.35.

1 7. In the event of a default in the timely making of any of the payments specified
2 herein, the full gross amount outstanding due under this Consent Judgment, plus liquidated
3 damages due under FLSA Section 16(c), 29 U.S.C. § 216(c), in the amount of \$139,834.80, plus
4 post-judgment interest at the rate of 10% per year from the date of this Consent Judgment until
5 the full amount of this Consent Judgment is paid in full, shall become immediately due and
6 payable directly to the U.S. Department of Labor by certified check to the District Director of the
7 Wage and Hour Division at the address in paragraph 4. For the purposes of this paragraph, a
8 “default” is deemed to occur if payment is not delivered within five calendar days of the due
9 date.

10 8. Defendants shall make and keep records demonstrating the total number of hours
11 worked for each driver for each day and each week.

12 9. Defendants shall not claim that any portion of a driver’s work shift is break time
13 to be excluded from hours worked unless the driver is completely relieved from all duties for at
14 least 30 consecutive minutes.

15 10. The filing, pursuit, and/or resolution of this proceeding with the filing of this
16 Consent Judgment shall not act as or be asserted as a bar to any action under Section 16(b) of the
17 FLSA, 29 U.S.C. § 216(b), as to any employee not named on the Exhibit A attached to the
18 Consent Judgment and incorporated hereto by reference, nor as to any employee named on the
19 Exhibit A for any period not specified herein for the back wage recovery provisions.

20 11. Defendants agree and stipulate to enter into this Consent Judgment for the sole
21 purpose of resolving disputed facts and neither admit nor deny the allegations contained in the
22 Secretary’s Complaint.
23
24
25

1 12. Each party shall bear all fees and other expenses (including court costs) incurred
2 by such party in connection with any stage of this proceeding to date; and it is further,

3 **ORDERED** that the parties to the instant complaint shall comply with the terms of this
4 Consent Judgment;

5 **ORDERED** that this Court shall retain jurisdiction of this action for purposes of
6 enforcing compliance with the terms of this Consent Judgment; and

7 Dated November 5, 2014.

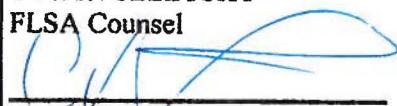
8
9 
10 UNITED STATES DISTRICT JUDGE

11 Consented to By:

12 For Plaintiffs:

13 M. PATRICIA SMITH
14 Solicitor of Labor

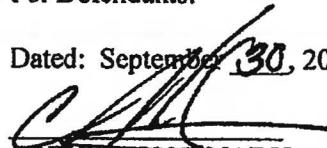
15 JANET M. HEROLD
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18 FLSA Counsel


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20 Trial Attorney
21 Attorneys for U.S. Department of Labor

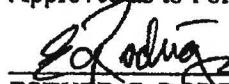
22 Dated: October 1, 2014

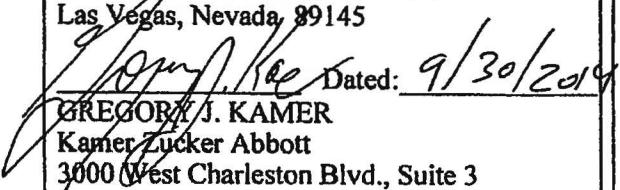
For Defendants:

Dated: September 30, 2014


CREIGHTON J. NADY, as an individual and
on behalf of A CAB LLC

Approved as to Form:

 Dated: 9/30/14
ESTHER C. RODRIGUEZ, Esq.
Rodriguez Law Offices, P.C.
10161 Park Run Drive, Suite 150
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 Dated: 9/30/2014
GREGOR J. KAMER
Kamer Zucker Abbott
3000 West Charleston Blvd., Suite 3
Las Vegas, NV 89102

Attorneys for Defendants

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Allen, Otis L
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Altamura, Vincent T
Alves, Mary A
Ameha, Samuale B
Anastasio, James
Anderson, Jason E
Anderson, Roosevelt A
Anif, Janeid M
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Arar, Isam K
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EXHIBIT A

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Barbu, Ion D
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Barich, Edward C
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Barr, Kenneth W
Barrett, Jon A
Barseghyan, Artur
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Bellegarde, Josue
Benel, Christian E
Bey, Ronald A
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Blanco, Mario L
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Caymite, Luc
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Chau, Phi V
Chico, David
Choudhary, Krishna M
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Conway, James H
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Craddock, Charles P
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EXHIBIT A

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Disbrow, Ronald L
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Donahoe, Stephen L
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Durtschi, Jeffrey
Edwards, Jeffrey A
Egan, Joseph W
Ekoue, Ayi
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